

## REMARKS

Claims 10 and 11 have been amended. Claims 1, 6-9 and 12-20 have been canceled. Thus, claims 10 and 11 remain presented for examination. Support for the amendment to claims 10 and 11 may be found in previous claim 1. Thus, no new matter has been added. Reconsideration and withdrawal of the present rejections in view of the comments presented herein are respectfully requested.

### **Examiner interview**

Applicants' representatives, Neil S. Bartfeld, Ph.D. and Daniel E. Altman, would like to thank the Examiner for the courtesy extended to them during the telephonic interview conducted on February 6, 2009. The substance of this interview is incorporated into the amendments and remarks presented herein.

### **Claim objection**

Claims 12-15 were objected to under 37 CFR 1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim since they depend from a canceled claim. Claims 12-15 have been canceled, thus rendering this objection moot.

### **Obviousness-type double patenting**

Claims 1, 6-9 and 12-20 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-10 of commonly owned U.S. Patent No. 7,449,276. Claims 1, 6-9 and 12-20 have been canceled, thus rendering this rejection moot.

Claims 1 and 6-20 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-25 of commonly owned, copending U.S. Patent Application No. 10/566,425 in view of Oono et al (US 6,723,483). Enclosed herewith is a terminal disclaimer over US Patent Application No. 10/566,425, which obviates this rejection.

In view of the comments presented above, Applicants respectfully request reconsideration and withdrawal of the obviousness-type double patenting rejections.

### **Rejection under 35 U.S.C. §102(f)**

Claims 1, 6-9 and 12-20 were rejected under 35 U.S.C. 102(f) as allegedly being anticipated by Hojo et al (US 7,449,276). Although Applicants submit that the invention claimed in Claims 1, 6-9 and 12-20 was clearly made by the inventors named in the present application, and that there should be no question regarding the present inventorship, claims 1, 6-9 and 12-20

have been canceled solely to expedite prosecution of the present application, thus rendering this rejection moot.

In view of the comments presented above, Applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. §102(f).

**No Disclaimers or Disavowals**

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

**CONCLUSION**

Applicants submit that all claims are now in condition for allowance. Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

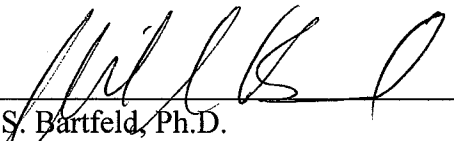
Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: \_\_\_\_\_

6/5/09

By: \_\_\_\_\_

  
Neil S. Bartfeld, Ph.D.  
Registration No. 39,901  
Agent of Record  
Customer No. 20,995  
(619) 235-8550